

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15281 of the Curtis Investment Group, Inc., pursuant to 11 DCMR 3108.1, for special exceptions under Sections 401.3 and 410.1 to establish the minimum width of lot and area, and to allow a group of five one-family units with division walls erected from the ground up to be deemed one structure in an R-5-A District at premises 3210-18 E Street, S.E., (Square 5446, Lot 812).

HEARING DATE: April 25 and June 27, 1990  
DECISION DATE: September 5 and October 3, 1990

1. The subject site is located on the north side of E Street, S.E., between 33rd and 32nd Streets to the east and west respectively. The property is located in an R-5-A District and is to be known as 3210 - 18 E Street, S.E.

2. At one time the lot contained a single family dwelling. This dwelling deteriorated and has since been demolished by the applicant. The lot contains a total of 6,825 square feet of land area and is presently vacant. It is 70 feet wide and 97.50 feet deep. A 20-foot wide public alley provides access to the rear of the property.

3. The site is a rectangular lot. Directly west of the property, there is a three-story, U-shaped apartment building. It was recently remodeled and is owned by the applicant. There is also a three-story apartment building to the east of the site. Both buildings are approximately 32 feet in height.

4. The property is located in the Fort Dupont Park neighborhood which is a predominately residential area comprised of detached and semi-detached dwellings. Garden or walk-up apartment buildings are also found throughout the community in the R-5-A District.

5. The applicant is seeking a special exception to allow the construction of five one-family units. The applicant proposes to erect division walls from the ground up and requests that the units be deemed one structure. The individual units will be sold as condominiums.

6. The structure will occupy 2,550 square feet or 37 percent of the lot. It will contain 6,137 square feet of space and the maximum allowable floor area ratio of .9 or 6,142 square feet.

7. The proposed structure will be built on the property line set back 30 feet from the E Street curb on the south side of the lot. The front entrance to each townhouse will be located on the

west side of the lot. The entire structure will be 75 feet wide with each unit measuring 15 feet in width. Twenty-six foot open courts with landscaping will be provided. Also, six parking spaces will be located to the north of the site with access from the abutting alley.

8. Each unit will be a three bedroom townhouse with three stories. The floor area ratio (FAR) of the structure will be as follows: first and second floors - 2,550 square feet each and third floor - 1,042 square feet, for a total FAR of 6,142 square feet.

9. The applicant testified that the applicable provisions of 11 DCMR 410 are met by this proposal. All front entrances abut a front court; no rear entrance abuts a street, front yard or front court; and there will be no external stairway.

10. Section 401.3 of the Zoning Regulations does not establish minimum lot dimensions for R-5-A districts. These dimensions are to be prescribed by the Board. The applicant requests that the minimum lot area and minimum lot width for this lot be consistent with the proposal. The proposed lot area is 6,825 square feet, and the proposed lot width is 70 feet.

11. The Office of Planning (OP), by report dated June 20, 1990 and through testimony at the hearing, recommended approval of the application. OP noted that no area variances are required by the project. OP described the proposal and stated that the applicant has incorporated design elements from nearby buildings into the proposed project. For example, the proposed building would be constructed of brick material with metal siding; the front door and windows of each unit would be treated differently; and the height and bulk of the proposed building is in proportion to the two apartment buildings that are adjacent to the property. Also, based on submitted plans, the project would be landscaped properly and adequate screening would be provided.

OP further stated that the project would not adversely affect the use of neighboring properties. Two distinct housing types exist on the street. There are apartment buildings and detached single-family homes in the 3200 block of E Street, S.E. Nine detached dwelling units are located on the south side of the block. The applicant's proposal would, therefore, complement the existing development pattern. Further, the planned project would be owner occupied. Developing vacant (under used) property and providing home ownership opportunities are excellent ways to bring stability to a residential neighborhood. Accordingly, the project would be in compliance with the purpose and intent of the Zoning Regulations and Map.

12. The Office of Planning referred the application to relevant District of Columbia departments and agencies. Responses were received from the Fire Department, the Metropolitan Police Department, the Department of Housing and Community Development and

the District of Columbia Public Schools. All of the responses indicate support for the project. The Metropolitan Police Department recommended that particular attention be given, by the applicant, to physical security protection measures.

13. The Office of Planning recommends approval of the application based on construction of the project as discussed with the applicant on May 21, June 1, and June 11, 1990.

14. Advisory Neighborhood Commission (ANC) 6C, by memorandum dated June 18, 1990, and through testimony at the hearing, expressed opposition to the application. The ANC was mainly concerned with the increase in density that the proposal would bring to the site. The ANC noted that one single-family dwelling formerly occupied the lot. To place five houses on the lot would create a crowded condition for the residents. Furthermore, the houses would be very small and the children would not have a playground.

15. A neighbor residing across the street from the site at 3209 E Street, S.E., testified in opposition to the application. She was concerned that the additional residents would make parking in the area more difficult. She agreed, however, that if the residents use the parking spaces provided, the problem would be remedied. This resident was also concerned that there is no place for the children to play, and as a result, they play in the street.

16. Another neighbor, who resides at 3300 F Street, S.E. was also opposed to the proposal. He questioned where visitors would park. He was also concerned with the population density, the small size of the houses, the lack of parking spaces and recreation areas at the applicant's other sites in the block, and the increase in criminal activity in the area. In his view, to develop the property with multiple dwellings would increase the drug-related criminal activity that now occurs in facilities in the area.

17. The last neighbor to testify in opposition resides at 3225 E Street, S.E. He stated that the area is already crowded and that there are a number of elderly residents in the neighborhood. He further stated that there are some undesirable young residents living in a house on the block. He suggested that a single-family dwelling be developed on the lot so as not to bring many more undesirable people to the neighborhood. He conceded that the type of structure will not solve the problem. He maintains, however, that adding more people will create more problems.

18. Responding to the ANC and the neighbors, the applicant stated that the concerns of the community are also the applicant's concerns. The applicant owns the apartment buildings immediately adjacent to the site and the members of the applicant association are personally responsible for repayment of the mortgages on those properties. Therefore, they are likewise affected, personally and economically, by what happens in the neighborhood. The applicant noted how difficult it is to eliminate the crime from the

neighborhood but indicated a willingness to work with the community to that end.

19. Defending the decision to build the townhouse condominiums, the applicant testified that they considered erecting another apartment building on the lot but felt that it would raise the concerns about crowding expressed by neighbors. The applicant attempted to create a balance between apartments on one side of the street and single-family dwellings on the other.

20. The Board suggested to the opponents that the community should begin to organize to resolve the problems complained of at the hearing. The Board pointed out that restricting the type of construction will not eliminate crime in the area. The Board requested that the Office of Planning organize a meeting with the residents and the developer to review the proposal, air complaints about the developer's other properties and discuss ways of organizing the residents. The Board is mindful that its request involves discussion of non-zoning issues. Nevertheless, it makes this request as an attempt to facilitate communication between the applicant and the community.

21. At the conclusion of the hearing, the Board left the record open for reports on the meeting to be submitted by the Office of Planning, the applicant, the ANC or other citizens groups.

22. A meeting was held on July 25, 1990. On August 6, 1990, ANC 6C submitted a report on the meeting. In the report, the community recommended that the applicant do the following:

- a. Reduce the number of units proposed to three instead of five;
- b. Assist the community in securing playground facilities for the children;
- c. Help to organize a Neighborhood Watch Program;
- d. Provide adequate nighttime lighting at the proposed development and improve such lighting at the applicant's other properties;
- e. Facilitate open communication between the community and other property owners in the neighborhood;
- f. Invite all multi-family property owners within a 3 or 4-block radius of the subject site to the next ANC 6C meeting; and
- g. Review all options available to the neighborhood to curtail illegal street activity.

23. By a supplemental report dated August 22, 1990, the

Office of Planning (OP) indicated that meetings with the applicant and community were held on July 25, August 6 and August 16, 1990. OP noted the following as a result of those meetings:

- a. The residents are very concerned about the problems in their neighborhood and they are fearful that if no corrective measures are taken, the neighborhood will decline. They are willing to work with the applicant as well as other owners of multi-family properties in their neighborhood.
- b. The applicant has expressed a willingness to work with the neighborhood residents by assisting the community in resolving problems of mutual concern. That assistance would be in the form of initiating a Neighborhood Watch Program and working to make local and Federal governmental agencies more responsive to neighborhood concerns.

The report also stated that OP will provide ANC 6C-02 with a list of names and addresses of owners of property adjacent to or within close proximity to the subject lot. A notice of the next ANC meeting will then be mailed to these persons by the ANC representative.

Finally, OP concluded that the process has begun for residents in the Fort Dupont Park community to resolve neighborhood problems on a continuing basis.

24. By letter dated August 31, 1990, the applicant submitted copies of correspondence, sent by the applicant to the appropriate entities, aimed at improving conditions in the Ft. Dupont area. The applicant stated that their efforts are continuing in the area of Neighborhood Watch/Patrol, enforcement of the narcotics laws, street lighting, park maintenance, and off-street parking for residents of the applicant's apartment buildings. It is the applicant's hope that with better organization the results desired by everyone will be achieved.

25. At its public meeting of September 5, 1990, the Board considered the application but deferred its decision until October 3, 1990 to afford the applicant an opportunity to respond to the ANC's recommendation that the number of units be reduced to three.

26. By letter dated September 26, 1990, the applicant modified its proposal and reduced the number of units to four. The applicant, however, believes that the concerns expressed by residents are unrelated to the size of the population in the community. These problems are being addressed directly. Nonetheless, in the spirit of compromise, the applicant submitted revised plans to reflect the modified four-unit proposal.

27. The modified plans, marked Exhibit 31A of the record, indicate that the only substantive change will be the size of each

unit. Each house will now be 18 feet 8 inches in width. The floor area ratio (FAR) for the first and second floor will be 2,539 square feet each. For the third floor the FAR will be 1,022 square feet, for a total of 6,142 square feet - the total FAR allowable. The applicant will still provide landscaping and six parking spaces on site.

#### CONCLUSIONS OF LAW AND OPINION

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking special exceptions to allow the construction of four townhouse condominiums in one structure and to establish the minimum lot width and lot area for the subject lot in the R-5-A district. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property. The applicable provisions of 11 DCMR 410 must also be met.

The Board concludes that the applicant has met the burden of proof and the requirements of Section 410 of the Zoning Regulations.

The Board concludes that R-5 districts were designed to permit a flexibility of design by allowing all types of urban residential development if they conform to the established requirements for height, area and density. The Board is of the opinion that the type of residential structure proposed by the applicant is consistent with the purpose and intent of the R-5 district. It is also compatible with the immediate area which is developed with single-family dwellings and apartment buildings. The Board concludes, therefore, that the proposed use is in harmony with the purpose and intent of the Zoning Regulations and Maps.

Recognizing that there are a number of problems in the neighborhood, the Board believes that with the continued cooperation of the residents, the applicant and other owners of property in the area, these problems can be resolved. The Board concludes that the majority of the problems are, however, unrelated to the subject property.

The one issue that is related to the subject property is density. In the Board's view, the applicant's modified proposal of four units adequately reduces the density so as to eliminate the possibility of over crowding and the problems associated therewith.

The Board concludes that the minimum lot area for the lot shall be 6,825 square feet and the minimum lot width shall be 70 feet. It is the opinion of the Board that the proposed use will not tend to affect adversely the use of neighboring property.

The Board concludes that it has afforded ANC 6C the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction be limited to four units as shown on the revised plans marked as Exhibit No. 31A of the record.

VOTE: 5-0 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; John G. Parsons and William F. McIntosh to grant by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

JUN 28 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15281Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15281

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 28 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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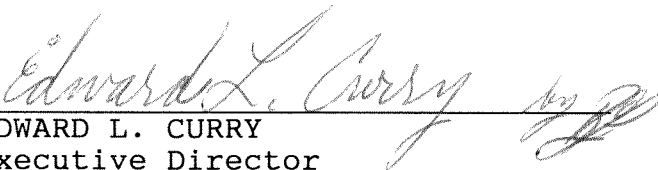
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EDWARD L. CURRY  
Executive Director

DATE: JUN 28 1991

15281Att/bhs